

## Case No. 12,474.

## SCHOLFIELD v. FITZHUGH.

{1 Cranch, C. C. 108.}<sup>1</sup>

Circuit Court, District of Columbia. Dec. Term, 1802.

## PLEADING AT LAW—AMENDMENT—CHANGE OF ACTION.

The court will not give leave to amend by changing the action from case to covenant.

Motion to amend by changing the writ from case to covenant.

No declaration nor cause of action was filed at the time of issuing the writ, which was ordered, by the plaintiff's counsel, to be in case.

THE COURT refused leave so to amend, because it was changing the question, and not simply bringing its merits fairly before the court.

KILTY, Chief Judge, contra.

The same point was also decided in the case of *Nicholls v. Harrison* [Case No. 10,229], at the same term.

<sup>1</sup> [Reported by Hon. William Cranch, Chief Judge.]

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